IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 6563 OF 2007**

**DATED: 2.4.2007**

**Between:**

The Depot Manager,
APSRTC, Madhira Depot,
Khammam petitioner

And

J.V.Rathnam S/o Venkateshwarlu & another

Respondents

**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**WRIT PETITION NO. 6563 OF 2007**

**ORAL ORDER**:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Labour Court, Warangal, in I.D. No. 220 of 2003 and quash the same.

The first respondent-workman is employed in the petitioner-Corporation as driver. He was issued with a charge sheet dated 31.7.2003 and was kept under suspension alleging that he was found in an intoxicated condition while on duty of 9.00 hours Kakaravai on 1.7.2003 and left the depot premises without reporting to the depot authorities. The first respondent submitted his explanation denying the charges. Having not satisfied with the explanation offered by the petitioner, an enquiry was ordered and the enquiry officer submitted a report holding the petitioner guilty of the charges alleged. Thereafter a show cause notice of removal was issued and ultimately by proceedings dated 22.11.2003 the first respondent was removed from service. Questioning the removal order, he raised an Industrial Dispute in I.D. No. 220 of 2003 on the file of the Industrial Tribunal-cum-Labour Court, Warangal. The Labour Court on consideration of the matter passed an award dated 30.6.2006 setting aside the removal order and directed to reinstate the 1st respondent-workman into service with full backwages and continuity of service. Questioning the said award, the management filed the present writ petition.

The learned Standing Counsel for the petitioner-Corporation contends that respondent No.1-workman was a chronic alcoholic and the evidence of service Conductor confirms the intoxicating condition of the 1st respondent-workman, and that the Labour Court, without appreciating the evidence on record, erroneously passed the impugned award directing the petitioner-Corporation to reinstate respondent No.1 into service with full backwages and continuity of service. He, thus, prayed that the impugned award be set aside and

the writ petition be allowed.

Heard learned counsel for the petitioner-Corporation and learned Government Pleader for Labour and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

The Labour Court on consideration of the material available on record, held that the findings of the enquiry officer are not based on material evidence and there is no evidence to show that the petitioner consumed alcohol. The relevant portion of the award reads as under:

> "……The Controller also admitted that the driver sent sick certificate on the next day. But the enquiry report did not contain any discussion as to whether the sick certificate was sent for investigation or not to ascertain whether the petitioner was sick or not. The findings of the enquiry officer are not based on material evidence. There is no evidence to show that the petitioner consumed alcohol and came for duty. Especially in the absence of medical test, it is highly difficult to believe that the petitioner came to duty after consumption of alcohol. So much so the report submitted by the Controller and Conductor to the Depot Manager clearly indicates that on seeing the health condition of the petitioner, the Controller arranged another driver in the place of the petitioner. Then only the petitioner left the vehicle after handing over the log sheet. Hence, both the charges have not been proved. This point is found in favour of the petitioner and against the respondent."

The Labour Court, on considering the said circumstances and on re-appreciation of the evidence, having found that the petitioner-

Corporation failed to establish any case against respondent No.1, and that the findings of the disciplinary authority against respondent No.1 are not based on any material evidence, passed the impugned award setting aside the order of removal from service and directed the petitioner-Corporation to reinstate respondent No.1 into service, with full back wages and continuity of service, and no exception can be taken thereto. The award of the Labour Court judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any of infirmities in it.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V.RAMANA,J

Date: 2.4.2007
TVK

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